

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 JOSEPH L NICKOLS,
12 Plaintiff,
13 v.
14 STEVE MANSFIELD,
15 Defendant.

CASE NO. C13-5942 BHS-JRC
ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL

16 The District Court has referred this 42 U.S.C. §1983 civil rights action to the undersigned
17 Magistrate Judge. The Court's authority for the referral is found in 28 U.S.C. §§ 636(b)(1)(A)
and (B) and Local Magistrate Judges Rules MJR 1, MJR 3, and MJR 4.

18 Plaintiff asks that the Court appoint an attorney to represent him (ECF No. 6). Plaintiff
19 states that he cannot afford an attorney and he argues that his imprisonment hinders his ability to
20 litigate his action. (ECF No. 6). There is no right to have counsel appointed in cases brought
21 under 42 U.S.C. § 1983. Although the Court can request counsel to represent a party, 28 U.S.C.
22 § 1915(e)(1), the Court may do so only in exceptional circumstances. *Wilborn v. Escalderon*,
23 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984);

1 | *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances
2 | requires the Court to evaluate both the likelihood of success on the merits and the ability of the
3 | plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.

4 | *Wilborn*, 789 F.2d at 1331.

5 Plaintiff has articulated a claim for violations of his Eighth Amendment rights for failure
6 | to protect him from an assault and for failure to provide adequate medical treatment. The Court
7 | is not yet in a position to evaluate the likelihood of success on the merits. The defendants have
8 | not answered the complaint nor filed any dispositive motion, although an attorney has appeared
9 | on defendants' behalf (ECF No. 7).

10 At this point in the proceedings the Court denies the motion for appointment of counsel.
11 The denial is without prejudice and plaintiff may renew his motion once the facts surrounding
12 the alleged assault and lack of medical treatment have been further developed and presented to
13 the Court.

14 Dated this 25th day of November, 2013.

15 

16 J. Richard Creatura
17 United States Magistrate Judge

18
19
20
21
22
23
24